

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0503P

**Withholding Tax
Calendar Year 1996**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed withholding tax for its non-resident contractors that performed services in Indiana. An Indiana corporation is required to withhold state income tax at the rate of 1.2 percent on the amount it pays or credits to any of its nonresident contractors that are not registered with the Department.

The withholding is to be made at the higher rate under IC 6-2-1-3(g) on all payments made during the year to a nonresident contractor which exceeds the sum of \$1,000. The tax withheld from income is to be reported by the withholding agent on Form WH-18 Indiana Miscellaneous Withholding Tax Statement for Nonresidents.

The audit adjusted withholding tax for payments made to nonresident contractors that filed no returns in Indiana.

ISSUE

I. Tax Administration – Penalty

Taxpayer protests the imposition of penalty.

DISCUSSION

In its letter dated September 18, 1999 taxpayer requests that the department waive the penalty because it was their first audit and have, since, trained its employees on the proper tax filing.

Taxpayer failed to remit tax for its nonresident contractors, which amounted to twenty-five percent of the tax liability. In accordance with 45 IAC 1-1-213, Indiana gross income tax is required to be withheld from any and all payments made to a nonresident contractor for performance of any work or services which are taxable to the State of Indiana. Both the Indiana Code and Indiana Regulations are clear.

The taxpayer has not provided reasonable cause for its failure to remit withholding tax for the nonresident contractors performing work in Indiana.

FINDING

Taxpayer's protest is denied.